



BILL: SB 192
Committee: Senate Business and Transportation
Date: February 7, 2013
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Subject:

Updates Oregon statutes to make consistent with recent changes in federal law in three ways:

- Amends ORS 657.471 so that employers with a pattern of failing to respond timely and adequately to information requests from the Employment Department, which cause an overpayment, do not have the opportunity to have their unemployment insurance (UI) account relieved of charges.
- Amends ORS 657.370 – 657.390, to make several changes to Oregon's Work Share program to be consistent with federal law.
- Amends ORS 657.158, to expand Oregon's Self Employment Assistance program.

Introduction:

Federal legislation in 2011 and 2012 made changes to the UI program. In order to stay consistent with federal law, and to fully take advantage of some of those changes for the benefit of Oregonians, corresponding changes are needed in Oregon law.

If Oregon is found to be out of conformity with federal law, it could result in financial sanctions against the Employment Department's administrative grant of up to an estimated \$109 million per biennium. Oregon employers would also lose a credit they currently receive against their Federal Unemployment Tax Act (FUTA) obligations. The loss of this credit would result in a projected \$1.11 billion in additional federal payroll taxes for Oregon employers per biennium.

Discussion:

Employer Account Charges

On October 21, 2011, Congress passed the Trade Adjustment Assistance Extension Act (TAAEA) of 2011 (Public Law 112-40). The act requires states to deny relief of charges to employers who have a pattern of not responding timely and adequately to requests for information from the Employment Department, if that failure resulted in an overpayment of UI benefits. Relief of charges means the employer's UI tax rating is not be affected by a claim. Oregon does not have a statute that complies with this requirement. SB 191 creates such a provision.

If Oregon is found to be out of conformity with federal law, it could result in financial sanctions against the Employment Department's administrative grant of up to an estimated \$109 million per biennium. Oregon employers would also lose a credit they currently receive against their Federal Unemployment Tax Act (FUTA) obligations. The loss of this credit would result in a projected \$1.11 billion in additional federal payroll taxes for Oregon employers per biennium.

This change is a relatively new aspect of UI law, therefore the Employment Department intends to work with the business community on implementation to allow us to ensure a fair application of federal requirements without imposing an undue burden on Oregon employers. We anticipate closely following the standards recommended by UWC (an association representing the business community on national unemployment insurance and workers' compensation issues). Their recommended

standards say that an employer has a pattern of not adequately responding when it fails to timely and adequately respond at least twice, or two percent, whichever is greater, within a one year period.

Work Share Program

Oregon has a Work Share program, which helps employers maintain a trained workforce during temporary downturns in business. An employer facing a layoff can take advantage of this program to reduce the hours being worked by a broader group of employees instead of laying off some employees. Those employees receive some Work Share benefits to offset some of their lost wages while the employer gets to retain its trained workforce for when business increases.

On February 17, 2012, Congress passed the Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96). This law provides that the Department of Labor (DOL) will provide three years of full reimbursement for Work Share benefits if a state establishes a program meeting federal guidelines. The Employment Department's Work Share program does not meet those federal guidelines; SB 192 brings Oregon's Work Share program into alignment. If these changes are made, Oregon can receive reimbursement from the DOL for three years of Work Share benefits paid by Oregon.

SB 192 changes the Work Share program by:

- Prohibiting seasonal, temporary or intermittent employees from participating in Work Share;
- Requiring employers to document its plan for avoiding layoffs and reducing hours;
- Requiring employers to maintain existing health and retirement benefits for employees receiving Work Share benefits;
- Permitting benefits to be paid while employees receive approved training; and
- Providing that employers will not have their employer tax accounts charged when the Work Share program is fully federally funded.

If these changes are not made, Oregon's Work Share program would not be consistent with federal law. Oregon would need to either cease having a Work Share program, or it could be found to be out of conformity with federal law. That could cause the sanctions against the Department's administrative grant and additional federal tax liability for Oregon employers, as discussed above.

Self Employment Assistance Program

Oregon has been a national leader with the Self Employment Assistance (SEA) program. This program permits people who are unemployed and likely to exhaust all of their UI benefits before getting reemployed to receive benefits while starting their own business. Historically, SEA benefits were only available to people during their regular UI benefits claim – generally 26 weeks. Benefits have not been available to people who decided to start their own business after exhausting their regular UI benefits, and then are receiving benefits under a UI extension program.

Public Law 112-96 also modified the SEA program to permit states to provide SEA benefits to people receiving Emergency UI benefits if the state enters into an agreement with the United States Department of Labor. Oregon has entered into such an agreement.

Public Law 112-96 also permits states to pay SEA benefits to people receiving Extended Benefits, which is a different extension program. SB 192 amends Oregon law to permit the Employment Department to pay SEA benefits to people on the Extended Benefits program. Although Oregon's unemployment rate has dropped enough that we are not currently paying anyone Extended Benefits, should that program become active again in the future, SB 192 would permit those people to be eligible for SEA benefits.

Summary:

SB 192 denies employers the opportunity to have their accounts relieved of charges if they have a pattern of not timely and adequately responding to Employment Department requests for information, and their failure to respond causes an overpayment. SB 192 also makes changes to the Work Share program to keep Oregon in conformity with federal law. SB 192 also permits people to receive Self Employment Assistance benefits when Oregon is paying Extended Benefits.